

### REMARKS/ARGUMENTS

Claims 1-20 are pending. Within the Office Action, claims 1-8 and 14-17 are rejected under 35 U.S.C. § 103(a); claims 9-13 and 18-20 were previously withdrawn. The Applicants respectfully request reconsideration in light of the arguments made below.

#### **Rejections under 35 U.S.C. § 103(a)**

Within the Office Action, claims 1-8 and 14-17 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,973,490 to Robertson *et al.* in view of U.S. Pub. No. 2001/0010059 to Burman *et al.* The Applicants respectfully traverse these rejections.

#### *The present invention*

The present invention is directed to determining the performance of a route along a network. In accordance with the present invention, performance is determined by requesting a Web page, downloading a Web page containing a Uniform Resource Locator (URL) for a Web object, requesting the Web object, and then sending the Web object. Concurrent with sending the Web object, a round trip time from the transmission and reception of *corresponding transport protocol packets* is measured. Transport protocol packets are discussed at length within the Specification, such as at page 7, line 1, to page 8, line 8. Measuring a round trip time using transport protocol packets differs from merely measuring the time from the receipt of an entire file or object using some high-level system calls.

#### *Robertson*

Robertson is directed to a system for internet performance monitoring and analysis. (Robertson, Abstract) Robertson describes distributing Data Collection Agents (DCAs) across a network to measure download times for Web pages. Using DCAs, Robertson describes measuring times, such as DNS Lookup Time, Request Time, Response Time, Connection Teardown Time, and End-to-End Time. (Col. 4, line 61, to col. 5, line 14) Robertson does not describe using transport protocol packets to measure a round trip time.

Indeed, within the Office Action, it is admitted that Robertson does not teach “detecting a request for the web object from the terminal at the internetwork server; in response to the request for the web object, sending the web object from the internetwork server to the terminal; and concurrent with sending the web object, measuring a Round Trip Time (RTT) from the

transmission and reception of corresponding transport protocol packets sent between the internetwork server and the terminal.”

*Burman*

Burman is directed to an apparatus and method of determining transfer time, bandwidth, or both between devices connected to a computer network. (Burman, Abstract) In one embodiment, Burman describes downloading a rich media file to a user’s computer. The rich media file can start a clock or timer (Burman ¶ 0066). Later, Burman explains in paragraph 0070, cited within the Office Action, that the rich media file can cause the user’s browser to merely note the time elapsed between fetching an image and receiving it. Burman mentions nothing about using transport protocol packets to measure round trip times. Instead, Burman describes one high-level function call, `tmCurrentTime=((new Date()).getTime())`, used to measure time. (*Id.* ¶ 0064).

*Claims 1-8*

Claim 1 is directed to a method of measuring a performance of a route in an internetwork. The route couples an internetwork server to a terminal on the internetwork. The method includes (1) at a frequently trafficked portal on the internetwork, detecting a request for a web page from the terminal, where the web page is at least partially stored at the frequently trafficked portal; (2) in response to the request for the web page, downloading the web page to the terminal via the internetwork; (3) from the web page, retrieving a Uniform Resource Locator (URL) for a web object referenced in the web page; (4) resolving the URL to the internetwork server; (5) detecting a request for the web object from the terminal at the internetwork server; (6) in response to the request for the web object, sending the web object from the internetwork server to the terminal; and (7) concurrent with sending the web object, measuring a Round Trip Time (RTT) from the transmission and reception of corresponding transport protocol packets sent between the internetwork server and the terminal.

Neither Robertson nor Burman, either alone or in combination, teaches, suggests, or provides any motivation for concurrent with sending a Web object, measuring a round trip time from the reception and transmission of corresponding transport protocol packets. For at least this reason, claim 1 is allowable over Robertson, Burman, and their combination.

Claims 2-8 all depend on the allowable claim 1. Accordingly, claims 2-8 are all also allowable as depending on an allowable base claim.

*Claims 14-16*

Claim 14 is directed to a system for measuring performance of an internetwork. The system includes “a measurement process executed on the internetwork server, such that in response to the download request, the measurement process for measuring one or more Round Trip Times from the transmission and reception of corresponding *transport protocol packets* sent between the internetwork server and the web browser.” Neither Robertson nor Burman, either alone or in combination, teaches, suggests, or provides any motivation for this element. For at least this reason, claim 14 is allowable over Robertson, Burman, and their combination.

Claims 15 and 16 both depend on the allowable claim 14. Accordingly, claims 15 and 16 are also both allowable as depending on an allowable base claim.

*Claim 17*

Claim 17 is directed to a method of measuring a performance of a route in an internetwork. The method includes “in response to [a] request for [a] web object, measuring a Round Trip Time (RTT) from the transmission and reception of corresponding *transport protocol packets* sent between the internetwork server and the terminal” (italics added). Neither Robertson nor Burman, either alone or in combination, teaches, suggests, or provides any motivation for this element. For at least this reason, claim 17 is allowable over Robertson, Burman, and their combination.

**CONCLUSION**

The Applicants respectfully submit that claims 1-8 and 14-17 are in condition for allowance, and allowance at an early date would be appreciated. If the Examiner has any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 so that any outstanding issues can be quickly and efficiently resolved.

Respectfully submitted,  
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